

IT 95-71
Tax Type: INCOME TAX
Issue: Federal Change (Individual)

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

DEPARTMENT OF REVENUE)
OF THE STATE OF ILLINOIS)
) No.
 v.) SSN
)
XXXXXX,) James P. Pieczonka
) Administrative Law Judge
 Taxpayer)

RECOMMENDATION FOR DISPOSITION

APPEARANCES: James P. Pieczonka, Administrative Law Judge presided at the subject hearing. Neither taxpayer nor an attorney appeared.

SYNOPSIS: The subject case is based upon a final federal change to taxpayer's adjusted gross income for the year ended 12/31/88; and taxpayer's failure to report said federal change to the Department pursuant to 35 ILCS 5/506(b) and pay the increased taxes and penalty due therefrom.

FINDINGS OF FACT:

1. The Department of Revenue received information from the Internal Revenue Service indicating that for the 1988 taxable year a final change was made to the taxpayer's federal adjusted gross income.

2. The Department of Revenue records indicated that the taxpayer did not report said change to the Illinois Department of Revenue pursuant to 35 ILCS 5/506(a) and (b).

3. The Department issued a Notice of Deficiency to XXXXX on December 29, 1993.

4. The taxpayer filed a timely Protest and Hearing Request.

5. Taxpayer died on July 10, 1993 prior to the issuance of the Notice of Deficiency. Letters of Office were issued to XXXXX as

Independent Administrator by the Probate Court of Cook County on August 24, 1993 under case number XXXXX.

6. That Proper notice was not given to the Independent Administrator by the Department regarding the scheduled hearing and the Notice of Deficiency was not issued in the name of the Estate of XXXXX.

7. That neither taxpayer's Independent Administrator nor an attorney appeared at the hearing due to defective notice by the Department.

CONCLUSIONS OF LAW: The Administrative Law Judge finds that:

1. That the Notice of Deficiency was issued to taxpayer subsequent to her death on July 10, 1993, therefore it was defective and must be withdrawn.

2. Neither taxpayer nor an attorney appeared on her behalf due to defective notice of the hearing which was not issued to the Independent Administrator of the estate of taxpayer, therefore the Notice of Hearing must be withdrawn.

James P. Pieczonka
Administrative Law Judge

Dated: